

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

Clerk's Office
U. S. District Court
FILED
2/27/2020
Julia C. Dudley, Clerk
By: /s/ Susan Moody
Deputy Clerk

MARIA DEL PILAR POSE BEIRO,

Plaintiff,

v.

CFA INSTITUTE,

Defendant.

Civil Action No. 3:20CV00004

MEMORANDUM OPINION

By: Hon. Glen E. Conrad
Senior United States District Judge

Plaintiff Maria Del Pilar Pose Beiro, proceeding pro se and in forma pauperis, filed this action against the CFA Institute in the United States District Court for the Southern District of New York. After discovering that the plaintiff had filed three prior actions against the CFA Institute in the Western District of Virginia, arising out of the same events, Chief United States District Judge Colleen McMahon transferred the case to this District, pursuant to 28 U.S.C. § 1404(a). See Transfer Order, ECF No. 7; see also Beiro v. Sharp, No. 3:18CV00055, 2018 U.S. Dist. LEXIS 121978 (W.D. Va. July 20, 2018) (dismissing complaint without prejudice for lack of subject matter jurisdiction); Beiro v. CFA Institute, No. 3:18CV00069, 2018 U.S. Dist. LEXIS 143405 (W.D. Va. Aug. 22, 2018) (same); Beiro v. CFA Institute, No. 3:18CV00088, 2019 U.S. Dist. LEXIS 18074 (W.D. Va. Feb. 4, 2019) (granting motion to dismiss filed pursuant to Federal Rule of Civil Procedure 12(b)(6)).

Under 28 U.S.C. § 1915(e), which governs in forma pauperis proceedings, the court has a “duty to screen initial filings.” Eriline Co. S.A. v. Johnson, 440 F.3d 648, 656 (4th Cir. 2006). The court must “dismiss a case at any time if the court determines that . . . the action . . . is frivolous or malicious.” 28 U.S.C. § 1915(e)(2). “Because district courts are not required to entertain

duplicative or redundant lawsuits, they may dismiss them as frivolous or malicious pursuant to § 1915(e).” McClary v. Lightsey, 673 F. App’x 357, 357 (4th Cir. 2017) (citing Aziz v. Burrows, 976 F.2d 1158, 1158 (8th Cir. 1992)); see also Bailey v. Johnson, 846 F.2d 1019, 1021 (5th Cir. 1988) (“Other courts have also held that an IFP complaint that merely repeats pending or previously litigated claims may be considered abusive and dismissed” under § 1915). “Generally, lawsuits are duplicative if the parties, issues, and available relief are not different from each other.” McClary, 673 F. App’x at 357 (citing Georgia ex rel. Olens v. McCarthy, 833 F.3d 1317, 1321 (11th Cir. 2016)).

Upon review of the complaint, the court concludes the instant action is clearly duplicative of the last action filed by the plaintiff, which was dismissed under Rule 12(b)(6). See Beiro v. CFA Institute, No. 3:18CV00088, 2019 U.S. Dist. LEXIS 18074 (W.D. Va. Feb. 4, 2019). The plaintiff repeats the same factual allegations, and she purports to assert the same “3 causes of action” against the CFA Institute: “breach of contract, punitive damages for breach of contract and breach of contract accompanied by willful tort.” Compl. at 6, ECF No. 2. In ruling on the motion to dismiss filed in the previous action, the court concluded that any claim for breach of an alleged oral contract with the CFA Institute was barred by a written settlement agreement between the parties, that the complaint failed to state a claim for breach of the written settlement agreement, and that the complaint failed to state a claim for “willful tort.” Beiro, 2019 U.S. Dist. LEXIS 18074, at *8–12. The court is convinced that the same deficiencies and grounds for dismissal exist in the instant action, in which the plaintiff asserts identical allegations and claims for relief. Accordingly, the pending action will be dismissed as duplicative.

Conclusion

For the reasons stated, this case will be dismissed without prejudice pursuant to 28 U.S.C. § 1915(e)(2). The Clerk is directed to send copies of this memorandum opinion and the accompanying order to the plaintiff.

DATED: This 17th day of February, 2020.



Senior United States District Judge